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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 22 November 1995 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to enclose herewith the response of the Government of the Sudan to the interim report on the situation of human rights in the Sudan, contained in document A/50/569 of 16 October 1995, prepared by Mr. Gáspár Bíró, the Special Rapporteur of the Commission on Human Rights (see annex).

I should be very grateful if you would kindly circulate the text of the present letter and its annex as an official document of the General Assembly under agenda item 112 (c).

(Signed) Ali M. O. YASSIN

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ANNEX

Response of the Government of the Sudan to the interim report on the situation of human rights in the Sudan contained in document A/50/569 of 16 October 1995, prepared by Mr. Gáspár Bíró, Special Rapporteur of the Commission on Human Rights

21 November 1995

New York

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I. INTRODUCTION

This Section I of our response is an introductory overview intended to put the interim report of the Special Rapporteur in its proper context and perspective starting with the historical background of the situation of human rights in the Sudan. Section II of the response is a detailed, paragraph by paragraph, response to all the allegations noted by the Special Rapporteur, and Section III contains our conclusions and recommendations.

A. The historical background

1. At the outset we would like to clarify that the reference made by the Special Rapporteur in paragraph 3 of his interim report contained in document (A/50/569) dated 16 October 1995 that his request for a permission to undertake a mission to the Sudan was not responded to, was not an accurate reporting of the facts of the case. Therefore , we deem it appropriate to introduce our response to the interim report by the following historical background.

2. The commission on human rights has discussed the situation of human rights in the Sudan, for the first time, at its forty-seventh session in 1991 soon after the application of Islamic Laws in the Sudan in January 1991. On 12 May 1992, the Chairman of the Commission on human rights appointed Mr. Gaspar Biro as the independent expert for the Sudan.

3. The independent expert visited the Sudan and spent six working days from 21 to 26 November 1992 and has described the attitude of the Government of the Sudan towards the mission, in his report, as follows: " The independent expert must point out from the very beginning that both the Sudanese Mission and the Government of the Sudan have been very cooperative and that the schedule agreed upon with Ambassador Mohamed was fully accomplished".

4. Before the submission of the report of the independent expert to the forty- ninth session of the Commission on human rights, the General Assembly of the United Nations was called upon to address the issue of the human rights situation in the Sudan at the insistence of some circles, which were not happy with the application of Islamic Laws in the Sudan.

5. As a result, the General Assembly adopted resolution 47/142 of 18 December 1992 on the situation of human rights in the Sudan expressing " its deep concern at the serious human rights violations in the Sudan" and despite the objections of the Government of the Sudan to that resolution, which has pre-empted the mission of the independent expert, nevertheless it has respected the will of the international community and has taken all necessary measures to comply with that resolution.

6. The above-mentioned resolution of the General Assembly, coupled with the insistence of some circles to escalate their confrontation with the Government of the Sudan had a drastic impact on the Commission on human rights at its forty- ninth session in February 1993. That impact was exemplified by the neglect of the Commission on Human Rights of the recommendation of its working group on country situations to extend the mandate of the independent expert as called for by his report: " .. he could not dedicate enough time and effort to study the situation of churches and different ethnic and racial minorities and contact directly the individuals concerned". And so the Commission decided, by resolution 1993/60 of 10 March 1993, that the situation of human rights in the Sudan should be examined under public procedures. On 30 March 1993, the Chairman of the Commission on Human Rights appointed Mr. Gaspar Biro himself Special Rapporteur.

7. The special Rapporteur has addressed a letter dated 29 July 1993 to the Government of the Sudan requesting an official visit to the country and he received a prompt official invitation in a letter dated 9 August 1993. Such a quick response shows the extent of the respect of the Government of the Sudan for the will of the international community and its readiness to cooperate. The Special Rapporteur visited the Sudan from 11 to 13 September 1993, and from 14 to 17 December 1993.

8. In paragraph 24 of the interim report submitted to the 48th session of the General Assembly the Special Rapporteur made the following remarks: " the Government of the Sudan cooperated with the Special Rapporteur by arranging the meetings he had requested ... " and " ... the Government of the Sudan further facilitated visits to the locations the Special Rapporteur wished to see. No objections were raised by the Government of the Sudan against a visit to SPLA- controlled areas in southern Sudan and the Nuba Mountains ... ".

9. There is no doubt that the attitude reflected by the remarks quoted above is one of full and unreserved cooperation and assistance to the Special Rapporteur in the discharge of his duties, and that the Government of the Sudan has ensured that the Special Rapporteur had free and unlimited access to any person in the Sudan whom he wished to see. Actually, it was only when the Special Rapporteur has acted ultra vires his mandate by calling for the abolition of Islamic Laws in violation of the basic right of freedom of religion, as will be explained in great detail later on, the Special Rapporteur was denied access to the Sudan.

B. Reservations against the Special Rapporteur

10. The Government of the Sudan, out of respect to the UN machinery in the field of human rights, has extended its cooperation to the Special Rapporteur in the manner explained above despite the numerous reservations it has against him which are as follows.

11. According to paragraph 3 of resolution 1993/60 which has defined the mandate of the Special Rapporteur, he should be " an individual of recognized international standing and expertise in human rights ". Undoubtedly, he himself could not claim to have met these requirements in view of his age (born on 16 June 1958) and poor C.V., compared with the other expertise of the Commission on Human Rights who have been on the job long before he has joined the primary school.

12. Furthermore, and from our experience with him, we have discovered that he lacks experience and professionalism. In paragraph 14 of our comments on his interim report (A/C.3/48/17) dated 23 November 1993 we have explained, for example, how he has failed to distinguish between " allegations " and " evidence " , a distinction which is very pertinent to his mandate. Another example is his failure to set objective criteria for judging the credibility and reliability of the information as expressly requested by paragraph 5 of resolution 1993/60. The fact that the Special Rapporteur does not meet the qualifications provided for in resolution 1993/60 reflects on all his reports which are nothing more than a collection of allegations instead of being a careful verification of those allegations in the light of the internationally recognized concepts of evidence including admissibility, weight, and corroboration of evidence but no where in his reports do we find reference to those fundamental concepts.

13. In fact, paragraph 5 of resolution 1993/60 has made a very clear distinction between two different concepts: the weight of evidence and the admissibility of evidence. That distinction is recognized by all legal systems and is very basic to the kind of reporting entrusted to the Special Rapporteur and has of late been recognized by the Commission on Human Rights and we do not want to take credit for that by claiming that the recognition of the issue was made in response to the justifiable protest of the Sudan. But as is clear from all reports the Special Rapporteur has missed the point and it seems that he has never heard of that distinction, and that in itself explains why all his reports were a real confusion depending almost in all instances on hearsay evidence which is not only without any evidential value, but also inadmissible in all jurisdictions.

14. Naturally, poor qualifications coupled with lack of experience and a misunderstanding of the central theme of the mandate, that is credibility, reliability and admissibility of evidence, would not produce better reports than the reports of the Special Rapporteur which are mere collections of allegations and hearsay evidence.

15. In addition to lack of experience and professional ability, the Sudan has even a more serious reservation against the Special Rapporteur, and that is his lack of credibility. In substantiation of such claim we will summarize, in Section (E) below, the improvements which have taken place in the Sudan and which the Special Rapporteur has deliberately declined to report about. Such attitude is not novel to the Special Rapporteur since he has also declined to report many incidents favourable to the Government of the Sudan which have taken place during his last visit to the Sudan, for example the cancellation of his visits to Kajo Kaji and Juba in December 1993 after the Government has given its approval which ironically proves that the Government was willing to give free access to all parts of the country in contrast with the accusations levelled by him against the Government in this respect. Moreover, he has also declined to report the invitation turned down by him, to attend a seminar on the rights of the child convened under the auspices of the Sudanese National Council for Child Welfare and UNICEF despite the fact that no better chance could have been available for him to have a close scrutiny of Sudan's advanced legislation in the field of the rights of the child about which he has reported negatively in paragraphs 40-56 of his interim report. An even more incident in this connection is his refusal, while in the Sudan in 1993, to attend the court sessions of the trials of some of the persons about whom he has previously inquired, preferring to report that he, quote, " sincerely hopes that their trial .... will be in conformity with the international standards for a fair trial and that independent monitors will be allowed to attend the trial".

16. Despite all these numerous and well founded reservations the Government of the Sudan has continued to cooperate with the Special Rapporteur in the manner acknowledged by him in some of his previous reports, and he was only deprived access to the Sudan when he acted ultra vires his mandate by calling for the abolition of Islamic Laws in his February 1994 report, as explained in Section (C) below.

C. The main reason for not cooperating with the Special Rapporteur is his call for the abolition of Shariah Laws

17. When explaining above that the situation of human rights in the Sudan was discussed for the first time by the Commission on Human Rights at its forty-seventh session in 1991, the most pertinent question that comes readily to mind is why had the discussion begun at that specific date, two years after the present

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Government in the Sudan has assumed power on 30 June 1989, despite the fact that the early months of assumption of power by any revolutionary government are usually tainted with violations of human rights.

18. However, if we relate the beginning of the discussion to paragraphs (24-26) and the corresponding recommendations made by the Special Rapporteur regarding the inconsistency of the Sudan Islamic legislations with international norms, one would comfortably reach the conclusion that the discussion has begun at the forty-seventh session in 1991 because that session was the first session to be convened after the application of Shariah in the Sudan in early 1991. So one should not loose sight of the relationship between the application of Shariah and the beginning of the attack on the human rights record of the Sudan. That relationship explains why the Special Rapporteur has tailored that report and all his subsequent reports including the present interim report in such a manner as would make his call for the abolition of Shariah legislations appear objectively justified. Actually that relationship is the backbone of all his reports and shows how the noble issue of human rights has been manipulated to wage war against Islam. What we are really confronted with are not ordinary human rights reports reflecting the legitimate concern of the international community but a flagrant attack on Islam which goes far beyond the Sudan.

19. In that world wide campaign Amnesty International has taken the lead of NGOs in calling for the abolition of Shariah Laws in the Sudan by publishing its book, " The Tears of Orphans" where it has expressly called on page 128 for: " the Government (Sudan) should abolish cruel, inhuman or degrading punishments in Law. The punishments of stoning to death, crucification, mutilation and flogging should be removed from the Penal Code 1991".

20. As a result of the call for the abolition of Shariah legislations contained for the first time in the report of the Special Rapporteur dated February 1994, the Government of the Sudan has, as we have already noted, decided not to cooperate with him and requested the Commission on Human Rights for the following:-

(a) Withdrawal and disregard of paragraphs 59,60,61 and 133 (a) of that report regarding the abolition of shariah legislations as being contradictory to Article 18 of the Universal Declaration and Article 18 of ICCPR.

(b) Take the necessary remedial measures to comfort the feelings of muslims worldwide for the blasphemous reference in paragraph (61) of that report.

21. As for the similar call by Amnesty International the Government of the Sudan has responded elaborately in document (E/CN.4/1995/174) dated 29 March 1995 explaining that Amnesty International is challenging Shariah Laws not because Shariah laws are inconsistent with human rights laws but because Amnesty International is politically motivated against Islam and would not tolerate seeing its laws applied anywhere in the world.

22. Not much attention was given to the explanations of the Government of the Sudan regarding the political nature of the activities of Amnesty International until the British Courts ruled, on 4th July 1995 in Regina V. the Radio Authority, that the activities of Amnesty International are of a political nature and should not be broadcast so as not to mislead the public opinion. Consequently, we have every reason to believe that if the reports of the Special Rapporteur were to be contested before any courts of Law, they would be judged as being politically motivated and are inclined to mislead the public opinion.

23. We firmly believe that had it not been for the moderate reaction of Islamic countries to such challenge to Islamic laws, relying on the explanation given that the Special Rapporteur has not intended to challenge Shariah legislations but he was only targeting the human rights record of the Government of the Sudan, the Special Rapporteur would not have dared to repeat the challenge again in so many words and making it even more worse by claiming that it is the Commission on Human Rights which has called for the abolition of Shariah laws since it has confirmed in its resolutions the conclusions and recommendations contained in his previous reports including the conclusions and recommendations pertaining to the abolition of Shariah laws, in paragraph 24, " the Commission on Human Rights called upon the Government of the Sudan to comply with international human rights instruments and to bring its national legislation, which would include the 1991 Criminal Act, the legislation regarding the rights of the child and the civil status of women, into accordance with the instruments to which the Sudan is a party."

24. Undoubtedly, such challenge to Islam is unprecedented in all UN forums and should be the urgent concern of all Muslims because we believe that no Islamic country is in a position to amend the provisions of the Holy Quran, which are the sources of those legislations, as called for by the Special Rapporteur.

25. As for the substance of that indirect call by the Special Rapporteur for the abolition of Shariah laws contained in his interim report and summed up in paragraph 82(a) of that report, we will explain how such a call is a violation of the freedom of religion when we respond to paragraph 26 of the interim report.

In this respect our call for the General Assembly is as follows:

(a) Withdrawal and disregard of all references in the interim report calling directly or indirectly for the abolition of Shariah legislations in the Sudan .

(b) Take the necessary remedial measures to comfort the feelings of muslims worldwide for the unwarranted challenge to Islam posed by those references, otherwise no one would be in a position to guarantee that he would not face the fate of Mr. Suleiman Rushdi.

26. As for the countries members of the Organization of the Islamic Conference (OIC) we clarify that any voting in favour of the Sudan resolution would mean a full support for the interim report upon which the resolution is to be based and therefore such voting would, in effect, be an approval of the call for the abolition of Shariah legislation. On the other hand, voting for such resolution would make the call for the abolition of Shariah legislations originating from the General Assembly of the UN and not from the Special Rapporteur, and therefore no Islamic nation on earth would tolerate such a measure since it would prevent all Islamic countries, not only the Sudan, from applying Islamic Laws.

D. <u>The deployment of monitors is a futile exercise because of the open-door policy adopted by the Sudan and its cooperation with all UN human rights agencies</u>

27. To comply with the recommendation of the Special Rapporteur contained in his report submitted to the fifty first session of the Commission on Human Rights, the Commission, in its resolution 1995/77 of 8 March 1995, has mandated the Special Rapporteur to "assess possibilities regarding the deployment of human rights monitors in such locations as would facilitate improved information flow".

28. Responding to such mandate the Special Rapporteur has the following to say in paragraph 5 of his interim report; " A plan for implementation of a monitoring operation has been drawn up . However, the financial difficulties of the United Nations have prevented the implementation of the monitoring operation at the present time. The Special Rapporteur will provide a full account on this project in his final report to be submitted to the Commission on Human Rights at its fifty-second session ".

29. So, as is clear from the above, the Special Rapporteur has been mandated to " assess the possibilities" regarding the deployment of human rights monitors, but rather than doing that the Special Rapporteur took it upon himself to draw up a plan for the implementation of a monitoring operation. And had it not been for the financial difficulties of the UN, the Special Rapporteur would have implemented the monitoring operation.

30. We understand that the Special Rapporteur has a personal interest in the implementation of the monitoring operation since such implementation would guarantee the extension of his mandate and might also result in more responsibilities for him, but we don't understand that such personal interest would reach the extent of ignoring the directives of the Commission to " assess the possibilities " and go for drawing a plan for the implementation of the monitoring operation.

31. Nevertheless, our primary concern regarding the deployment of the monitors is not the motivation of the Special Rapporteur , despite the importance of that dimension, but the merits of that project. In fact we have four reasons for claiming that such project is a futile exercise leaving aside its financial cost which is tremendous.

32. First, the Sudan is adopting an open-door policy in the field of human rights which has resulted in receiving international dignitaries and organizations and allowing them to verify all allegations. Those dignitaries and organizations include the following:-

- The Pope, John Paul II.
- The Archbishop of Canterbury.
- The EU-ACP delegation.
- A member of the British House of Lords.
- Members of the British House of Commons.
- The International Commission of Jurists (ICJ).
- The American Lawyers Committee.
- Parliamentarians from Western Countries.
- The Human Rights Watch.
- Cabinet Ministers from Western countries.
- A delegation from the African Commission on Human Rights (the Government has officially agreed to the visit and it was left for the delegation to fix the date).

33. Those dignitaries and organizations have prepared extensive reports about human rights in the Sudan after having interviewed government officials and politicians and after having visited different places in the Sudan, so the main objective of the deployment of monitors which is to provide for flow of information from the Sudan has become redundant since the information about the situation of human rights in the Sudan is available in abundance in the reports of those dignitaries and organizations at no cost to the UN. Furthermore the open- door policy of the government is permanent and anyone who is interested in visiting the Sudan is most welcome, except the Special Rapporteur who has been denied access for the reasons given above.

34. Second, regarding the quality of reporting it is clear from the list of dignitaries and organizations referred to in paragraph 32 above, that the extent of their credibility and concern for human rights is beyond any challenge, and consequently we do not believe that the monitors would be equally credible or concerned about human rights.

35. Third, another source through which information is flowing from the Sudan is the UN agencies and representatives working in the field of human rights with which the Government of the Sudan has good working relations and extensive cooperation. An example of such attitude are the invitations extended to some of them, including the Commissioner of Human Rights and the Special Rapporteur on Transfer of Population, to come and visit the Sudan. Such cooperation has been officially acknowledged by UN agencies, a most recent example of which is the letter of the Special Rapporteur on Torture of the Commission on Human Rights dated 18 September 1995 addressed to the Sudan Permanent Representative in Geneva: " I am in receipt of communications from your Government (Sudan Government) dated as follows: a) 4 April 1995, reply to urgent appeals of 9 and 16 January 1995 for Mustafa Abdel Gadir and Ali Mahamoud Hassaneian; b) 12 June 1995, reply to urgent appeal of 8 June 1995 for Joseph Meno and Hashim Zeyada; and c) 23 June and 2 August 1995, replies to urgent appeal of 25 May 1995 for Sayed Sadig Elmahdi; I am grateful for those responses."

36. These frequent responses by the Government of the Sudan, for which the Special Rapporteur on Torture has found himself obliged to express gratitude, prove that there is no problem of flow of the information from the Sudan, but the problem is actually with the Special Rapporteur himself who is no longer a proper channel for communicating with the Sudan. Also the Government of the Sudan would maintain the same position with regard to the proposed monitors, so any expenses incurred by the UN in that connection are wasted resources.

37. Fourth, the deployed monitors would receive in most cases hearsay evidence about the situation of human rights in the Sudan and in addition to that, most of the people reaching them would be parties to the conflict with the Government and as such their credibility would be questionable, to say the least, since their priority would be to use the monitors as a tool for political pressure against the government.

38. We conclude this aspect by submitting that, in the light of the abovementioned four reasons, there are no justifications whatsoever for the deployment of monitors, since the information regarding human rights in the Sudan has been smoothly flowing from the Sudan to all parts of the world through credible sources whose deep concern for human rights has caused them to take the trouble of visiting the Sudan at no cost to the budget of the UN.

Surprisingly, the Special Rapporteur has never mentioned, in any part of his interim report, the credible reports prepared by any of those dignitaries and organizations which have visited the Sudan. Thus the Special Rapporteur owes this august body an explanation for such omission which we believe is deliberate and was intended to mislead all those who are concerned so as to agree to the deployment of monitors.

E. The Special Rapporteur has declined to acknowledge improvements in the Sudan, including transition to Democracy

39. Since his last visit tremendous achievements have been made by the Government of the Sudan in different political, economic and social spheres, nevertheless, the Special Rapporteur has declined to acknowledge any of them despite the fact that they are directly connected with the issue of human rights. Not only that, but also the Special Rapporteur has expressly declared in his interim report that there is no progress to report about.

40. The lack of credibility by the Special Rapporteur, already alluded to, is further substantiated by his failure to report the following improvements:

(1) Structural reform in the field of civil and political rights

41. First, since its assumption of power in 1989 the National Salvation Government (NSG) has recognized the importance of popular participation in the decision- making process by convening conferences for the discussion of all issues of public interest. In those conferences all sectors of the society were fairly represented and the conferences have started to be convened only few weeks after the assumption of power in 1989 and they have included the following:

- The National Dialogue Conference on Peace Issues.
- The Economic Conference.
- The Diplomatic Conference.
- The Women Conference.
- The Justice and law Reform Conference.
- The Displaced People Conference.
- The Education Conference.
- The Information Conference.
- The Youth and Sports Conference.
- The Social Development Conference.
- The Workers Trade Unions Conference.
- The Comprehensive National Strategy Conference.
- The Political System Conference.

In the light of the conclusions and recommendations of such conferences, the Revolutionary Command Council (RCC) has exercised its legislative and executive functions.

42. Second, To allow for a wider popular participation as a step towards direct elections which are the ultimate objective set out by the Political System Conference, a Transitional National Assembly (TNA) was established in 1991 to share with the RCC the legislative powers pending further steps in the transition to democracy.

43. Third, soon after the establishment of the TNA, the RCC dissolved itself and appointed a president of the republic pending elections scheduled for 1996.

44. Fourth, an important step towards transition to democracy in the Sudan has been reached by completion of the first round of elections at the State level. The final stage of elections, for the National Parliament and the President of the Republic, will be completed within few months in 1996 and that would mark the completion of the transition to democracy as anticipated by the political system.

(2) Legislative Reforms in the field of civil and political rights

45. First, the National Security Law has been amended to subject all activities under that law to judicial supervision. In fact such supervision has been very serious and extensive to give proper legal guarantees to all persons detained. An example of such supervision is the death penalty passed by the judiciary against one of the law enforcement officers who was actually executed on 18 June 1995.

46. Second, the human rights principles and standards have been enshrined for the first time in the constitutional decrees of the State by elaborately providing for them in Constitutional Decree No. 7. Furthermore, all the other related principles such as the principle of legality, the rule of law, equality before the law, non- discrimination and the various freedoms have also been enshrined as guiding principles in the National Comprehensive Strategy pending their inclusion in the permanent constitution.

47. Third, the freedom of expression has been guaranteed by the Press and Printed Materials Law, which has implemented the conclusions and recommendations of the Information Conference referred to above. Consequently, there are many daily news papers where opinions, different than that of the Government, are freely expressed.

48. Fourth, regarding the freedom of assembly, it is fully guaranteed by law and the legal provisions governing it are identical to those applied in western countries.

(3) Human Rights other than civil and political rights

49. Human Rights are far more extensive than civil and political rights, nevertheless, the Special Rapporteur has shown no interest in any rights other than the civil and political rights. Such attitude, on the part of the Special Rapporteur, is no wonder to any informed circle, since his political agenda and coordination with the self- exiled opposition has been openly exercised through his participation in many political gatherings arranged purposely to discredit the Government of the Sudan. But what is really amazing is the fact that by confining his activities only to civil and political rights the Special Rapporteur is betraying his own mandate according to which he is expected to cover the whole spectrum of human rights.

50. To give a few examples of the omissions of the Special Rapporteur in this respect, we refer to the institution of Zakat in the Sudan. The impact of such institution on the economic and social human rights of the people in the Sudan is tremendous, and it suffices to mention that the financial resources of such institution have increased by more than 1000% since 1989 and in the last fiscal year more than 45% of such resources amounting to more than 6,000,000,000 SD were allocated to the poor and needy. No one in his full senses would imagine that the Special Rapporteur would miss commenting on such an unprecedented experience with all its positive impact on economic and social rights called for by the International Covenant on Economic , Social and Cultural Rights.

51. Regarding the implementation of the right to housing called for by the same abovementioned covenant, the Special Rapporteur has also missed commending it as though the right to housing is no human right. The steps taken in that connection by the Government of the Sudan include the distribution in Khartoum State alone, of more than 350,000 plots of land (200-600 square meters each) since 1989 providing housing for more than 2,000,000 persons.

52. As for the right to education also not attended to by the Special Rapporteur the Government policies have resulted in the increase of the admission rate in the universities by more than 500%. Also the Government is planning to make education compulsory at the primary level (first 8 years), and Khartoum State, where more than 15% of the Sudan population live, has already done so with immediate effect from 1996. Also the Government has a comprehensive plan for the eradication of illiteracy within 10 years.

(4) Equitable division of wealth and power

53. To guarantee that all parts of the Sudan have their fair share of the wealth and power, the NSR has opted for a federal system for the organization of the structure of the State. Consequently, the Sudan is now divided into twenty-six States, each of them having its own Governor, judiciary, legislature, and cabinet Ministers. Seven

out of the sixteen northern states are no longer receiving financial support from the Federal Government and as a result the ten Southern States will receive more financial support from the Federal Government to compensate for the imbalance in development they are suffering as a result of the close- district policies applied during the British colonial rule. Likewise hundreds of ministerial and parliamentary posts in the ten Southern States are all occupied by southerners, therefore enjoying their fair share in the power of the country, in addition to their wide participation in all federal institutions.

(5) Independence of the Judiciary

54. On the date of the assumption of power by the NSR many legal instruments were repealed; one of the few exceptions was the Judiciary Act of 1986. So the NSR has been keen to maintain the independence of the judiciary as a major safeguard for the respect of human rights. That course of action explains why the judiciary in the Sudan would not hesitate in passing a death penalty against a law enforcement officer who has exceeded his powers, as we have already explained, without fear of reprisal from the Government.

(6) Sudan is free from political detainees and prisoners

55. All the above-mentioned improvements were further boosted by the recent decision of the NSR whereby all political detainees were released and all political prisoners were pardoned. Furthermore, all mothers in prison, whether nursing or not, were also pardoned so that the children would not pay for an offence which they have never committed. In addition to that more than 200 ordinary prisoners were also pardoned because of humanitarian considerations e.g. old age, health, or otherwise. And we note that whenever the Special Rapporteur refers to such positive measures, he would follow the reference by a reservation so as not to let it attract any appreciation.

(7) Review of all cases of civil servants made to retire for public interest since 1989

56. One of the accusations levelled against the NSR is the compulsory retirement of its political opponents from the civil service. In fact the motivation behind the policy of compulsory retirement was not political at all but the policy was adopted because of the numerous redundancies in many government institutions. Furthermore, different measures were taken, for example, the addition of five years to the service of the civil servants concerned, to absorb the negative consequences of the policy. Nevertheless, a presidential decree was promulgated recently mandating the review of all such cases within a specified period of time not exceeding one month (extended later for practical considerations).

57. Many circles have welcomed that measure but the Special Rapporteur, who has previously shown interest in the issue, is no longer interested to follow up the positive measures taken by the Government and has declined to make any reference to the issue.

(8) The German Federal Constitutional Court (GFCC) recognizes the non- existence of violations of human rights of political opponents in the Sudan

58. On September 11th 1995, the German Federal Constitution Court (GFCC) made its judgement regarding the refusal of the German authorities to grant asylum to seven Sudanese nationals. The court has confirmed the decision of the German authorities on different grounds, one of them being the fact that the German authorities have verified the allegations of some Sudanese politicians that there are violations of their human rights by the Sudanese authorities, and have reached the conclusion that there is no official policy for such violations and that no organ of the State in the Sudan commits or condones such violations.

(9) The respect of the Sudan Government to Humanitarian Law has been commended by the U.N.

59. The efforts of the Government of the Sudan in the field of humanitarian assistance which have resulted in series of bilateral and multilateral agreements with international, regional and national agencies have made the UN General Assembly to adopt a resolution during the 48th session in recognition and appreciation of those efforts. Moreover, the reports of Mr. Vieri Traxler, the representative of the Secretary-General, who has visited the Sudan twice during 1993, have explained and appreciated the extensive efforts of the Government of the Sudan in that connection. On the other hand, had it not been for the cooperation extended by the Government of the Sudan, the humanitarian work appreciated by resolution 48/147 of the General Assembly would not have been possible.

60. Not only did the Special Rapporteur turn a blind eye to all those tremendous efforts, but he has also declined to report the interference of the rebel factions with the delivery of humanitarian relief, despite the magnitude of that interference, which included the killings of relief workers, confiscation of relief shipments, and attack against land and water relief deliveries. Luckily, that intentional omission on the part of the Special Rapporteur would not cancel the context of the alleged violations.

61. The Special Rapporteur has never put the bulk of the reported violations in their proper perspective and context, that is, a 10-year civil war in the South, the facts of that civil war to which most of the alleged violations are attributable and which the Special Rapporteur declined to elaborate upon are as follows:

(a) The latest round of that war started in 1983 long before the present government in Sudan assumed power, and also before the application of Shariah in the Sudan, whether by the Government of President Niemeri or the present government.

(b) The present government is and has always been keen to reach a peaceful solution to the conflict, and actually started its efforts in that direction soon after it assumed power by convening the National Dialogue Conference during September-October 1989 and welcoming and attending all peace initiatives up to the current IGADD initiative chaired by H.E. President Moi of Kenya. On the other hand, the rebel factions have always been blocking those initiatives and engaging in deadly fighting among themselves for " personal and ethnic motives", as rightly observed by Mr. Pronk, the Minister of Development and International Cooperation of the Netherlands, who visited the Sudan in 1993. Moreover, the Government of the Sudan has adopted a conciliatory policy which no one would have dreamt of, including the exemption of Southern Sudan from Shariah Laws and the sharing of power and wealth by implementing a genuine federal system.

(c) Efforts to facilitate dialogue among the parties to the armed conflict, of which the Government of the Sudan has the biggest share, have been welcomed by resolution 48/147 adopted by the UN General Assembly on 20 December 1993.

II. REPORTED HUMAN RIGHTS VIOLATIONS

A. Alleged violations by the Government of the Sudan

1. They are fair trials, not extrajudicial killings or summary executions

62. The report holds the Government of the Sudan responsible for the on-going war in the south. It deliberately ignores the fact that the present government has inherited the war from the colonial rule and the successive national governments. One of the major deficiencies in the report is that it does not relate the alleged events to the internal conflict context within which they have taken place, as we have explained earlier. Consequently the report (paragraphs 7-10) labels the government military activities against the rebels as summary executions and extrajudicial killings. According to contemporary international law, dealing with issues of human rights in peace times is different from dealing with them at war times. The international community has acknowledged that reality and that is why it had made provisions for derogation therefrom in the relevant international human rights instruments.

63. Also the report does not include any detailed accounts of the allegations cited, nor, does it offer any substantiation of such allegations.

64. It is really amazing that the Special Rapporteur has referred to "secret trials" in paragraph 7, since he himself has been invited to attend the open sessions of one of the alleged secret trials in December 1993 while he was visiting the Sudan, but he has turned down the invitation without giving any reasons.

65. If it is true that the Government takes reprisals against civilians as alleged in paragraph 9, how can the Special Raporteur explain the established fact that thousands of civilians are fleeing the war in the south to northern towns and peace villages established by the Government in the south and in the Nuba mountains? More and above, how can he explain the fact that hundreds of rebel military leaders and soldiers are deserting the rebel army and coming to the Government-controlled areas?

66. The information reported in paragraph 11 that at least five persons were reported to have been killed by security forces is not true, and the Government has given full account of the student demonstrations which took place in September 1995, explaining that, except for the three students who were accused of sabotage, all of those arrested have been released.

2. There are no enforced or involuntary disappearances

67. The working Group on Enforced or Involuntary Disappearances, a UN organ specifically mandated with the above-mentioned topic, regularly publishes accurate statistics of the cases of enforced or involuntary disappearances all over the world. In its report of 1994 No. (E/CN4/1994/26) the working group noted that in some countries the cases of disappearances exceed 10,000 cases and that only four cases were reported about the Sudan, two of which have already been clarified to the satisfaction of the working Group. Nevertheless, the Special Rapporteur has intentionally declined to refer to such most relevant and authentic UN report, preferring to use a very loose language that "it is widely believed that thousands of persons have disappeared in the past few years".

3. Torture and other cruel, inhuman or degrading treatment are not existing in the Sudan

68. The special Rapporteur has been used to make frequent references to the so-called "Ghost houses" to distort the image of the Government. He has alleged previously that he had received floor plans, and that the information he received gives the exact location of one of them. We have responded to those remarks by explaining to him that such information could have been clarified by requesting the authorities to visit that particular location and

in case of a negative response, then he would be fully justified to conclude that such houses do exist. Our response was not taken into consideration and the Special Rapporteur is now using the same old technique once again by refering in paragraph 14 to "Ghost-houses" without making any verification of the allegation, but we don't believe that repetition would give more weight to such unfounded allegations.

69. Furthermore, it is worth noting that the Government authorities have succeeded during 1995 to interview Mr. Siri A. Zarogue who has publicly admitted having drawn and published fictious Sketches of Ghost-houses while he was a member of the self-exiled opposition in London, so as to make the allegation of Ghost-houses look real, thereby distorting the image of the Government.

70. The methods of torture enumerated in paragraphs 14-15 are frequently cited against most of the members of the UN and whether they are applied in the Sudan or not does not merit the concern of the Special Rapporteur. It is sufficient that his sources have reported them to him and whatever comes from these sources is incorporated in the report as conclusive evidence. In this connection it is most relevant to mention that when Mr. Sadig Almahdi, the ex-prime Minister, was detained in 1994, many allegations have been levelled accusing the Government of torturing him, but Mr. Almahdi himself has appeared on the T.V. refuting the allegations of torture. Likewise we don't believe that the allegations of torture contained in paragraphs 14-16 would have better credibility.

71. The Government of the Sudan, however, takes exception to his reference in paragraphs 14- 16 to "rape" by members of the security agencies. Such practices may prevail in some countries which seem not to be accountable for their deeds for obvious political considerations, but it is abhorrent to the Sudanese Code of conduct, and the fact that the Special Rapporteur chose to attribute it to the authorities in the Sudan only shows how much he lacks proper understanding of the country and its set of values.

72. On the other hand, if it is true that many Sudanese political detainees have died inside detention centres as alleged by the fictious source of the Special Rapporteur (S.T. aged 42), the Special Rapporteur would have been able to give at least the name of one such detainee.

4. Arbitrary arrest and detention are not existing in the Sudan, and due process of Law is prevailing

73. The process of arrest, detention, and trial is not carried out arbitrarily in the Sudan, but subject to legal procedures provided for in the criminal procedure and national security laws, and

consequently any action contravening these procedures is considered an offence. The Special Rapporteur must have been fully aware of these laws since he was given copies of them during his visit to the Sudan. In addition he has also received a full reply regarding all allegations of arbitrary arrest, detention and trials, but none of the content of the reply was reflected in the report.

74. Inspite of the foregoing, the Special Rapporteur has reported, in paragraphs 17-23 , about hundreds of arbitrary arrests and detentions in contravention with his mandate, which obliges him to seek credible and reliable information. We affirm in this connection that the Government respects the right of the individual not to be arrested, detained or tried arbitrarily, not only because it is a mandate of international law, but, more importantly, because it is an Islamic ordain and must be fully adhered to.

75. It is an established fact that the law governing detention in the Sudan is in full compliance with the principles of International Law enshrined in Articles (5) and (9) of the Universal Declaration of Human Rights, which provide that no one shall be subjected to arbitrary detention, and that those principles have been given the force of law. The Sudan National Security Act of 1990, as amended in 1991 and 1992, has elaborated in that regard in a more detailed manner, including the following:

(a) The National Security Council can only order detention for the protection of national security and for a comparably short period of time.

(b) The detainee has the right to be informed of the reasons of his detention.

(c) The detainee shall not be subjected to any physical harm or cruel treatment.

(d) The detainee has the right to complain to the competent Magistrate about non-compliance with the safeguards provided for in the law.

(e) The National Security Council may make an order extending the detention for three months if it deems that the national security so requires, but such order for the extension of detention is subject to judicial review.

(f) Any person released under judicial review shall not be re-detained except after the expiry of at least one month, or with the prior permission of the Magistrate concerned.

(g) Any person acquitted by any court under the National Security Act shall not be detained for being suspected of having committed an offence against the security of the State except after the expiry of one month as of the date of acquittal or with the prior permission of the Magistrate.

76. In addition to the above tight legal regime, which makes detention subject to strict judicial supervision, the Government of the Sudan has taken the following further measures:

(a) Provisions were introduced for the first time in the Sudan Penal Code 1991, incriminating all acts of torture or ill treatment of detainees (Sections 89, 90 & 115).

(b) A legal Counsel from the Attorney-General's Chambers was designated to make unscheduled visits to detention centres in order to ensure that detainees are treated according to law and to take legal proceedings against any law enforcement officer abusing or exceeding his powers.

(c) Statistics show that criminal complaints were being filed against security officers suspected of torture or ill-treatment of detainees, and one of them has resulted in a death penalty being executed against a Law enforcement officer on June 1995 as we have already mentioned.

(d) The authorities concerned have started to organize seminars for security officers where eminent lawyers and opinion leaders lecture them on relevant international conventions, religious teachings and national laws prohibiting torture and ill-treatment of detainees.

77. Having said that much about the theoretical aspect of the legal regime governing detention in the Sudan, it remains to be said further that the objective verification of the allegations made against the Government of the Sudan previously undertaken by the Special Rapporteur while visiting the Sudan has convinced him beyond any reasonable doubt that most of those allegations were unfounded, as is clear from the following:

(a) The Special Rapporteur, who was then an Independent Expert (IE), mentioned in paragraph 27 of his report (E/CN.4/1993/R.4) that the Sudan Government has introduced to him Mr. Louis Gore whom Amnesty International and other sources have alleged to be arbitrarily detained and tortured. In that paragraph the IE explained the facts of the allegations as follows:
"Louis Gore was introduced to the IE personally. He told the IE he had been detained for three days and that he had not been tortured - his general physical condition and behavior at first glance appeared as normal." Therefore we justifiably

submit that most of the allegations made against the Sudan and reported to the Special Rapporteur were similar to the allegations made with regard to Louis Gore, but the authorities were not always in a position to refute the allegations either because of the enormity of the allegations or because of the vagueness of the allegations or because of any other practical consideration.

b) After having visited the Sudan, the Special Rapporteur has described Kober Prison as follows: "In Kober Prison there was a number of approx. 15 persons who had participated in the 1990 plot, whose sentence had been reduced as a result of successive amnesties....the condition of these persons,...was very good, since their relatives supplied them regularly with food, books, newspaper, radio and one T.V.set. The IE is inclined to conclude that human rights are respected in the Kober Prison. This opinion is shared by independent sources also." It is hard to believe that a Government so keen to respect the human rights of persons participating in a plot against that Government, as testified to by the IE, would violate the human rights of other detainees committing less serious political offences as reported in the allegations made against the Sudan in paragraphs 17-23 of the report, but it seems that the Special Rapporteur has a weak memory and has forgotten his own previous reporting by resorting to a hearsay evidence as in paragraph 19: "It was reported that most of the detainees were subjected to ill-treatment in detention."

(c) Amnesty International (AI) has, in its document (AI Index: AFR 54/33/92), alleged that twenty persons were detained and that there is a serious concern that they were at risk of torture. At that time AI did not bother to contact the government of the Sudan for clarifications before publishing those allegations. As a consequence, those allegations have found their way to the report of the IE despite the fact that they were groundless since the procedures taken were only normal in the circumstances and the persons concerned were available to testify to the falsity of the allegations of torture. The Special Rapporteur is now repeating the same experience by reiterating hearsay evidence. Not only that but he is also distorting the facts, for instance he has recognized the fact that on 23 August 1995 the Sudanese National Security Council has announced the release of all political detainees, but he went on to say that he had received reports that Brigadier Mohammed Ahmed Al-Rayah was not amoung those who were released, intending to water down the positive impact of this unprecedented announcement even at the cost of his professional ability, since Mr. Al-Rayah is not a political detainee but a political prisoner. Following another technique to water down the announcement, the Special Rapporteur has referred to many unfounded allegations. For instance in paragraph 20 he pointed out that "three well-known

lawyers were also arrested". Actually the arrest was for a very short period of time and all of them are free now, but he would not give a full account of the facts by explaining that the arrest was made because of serious accusations and has not lasted long.

78. The abovementioned remarks proves that the noble issue of human rights has been used and manipulated for political and ulterior purposes, and if we allow that trend to continue, it would discourage any genuine endeavor to protect or promote human rights.

5. Provisions of penal legislation are consistent with international norms

79. Regarding this subject the Special Rapporteur has claimed in paragraph 26 that the Sudan in its extensive written replies did not forward, during the past two years, one single argument supporting the consistency of its State legislation (Islamic) with international human rights norms and standards. In response to this claim we refer to the recent document (E/CN.4/1995/174) dated 29 March 1995 where the Sudan has forwarded its argument explaining that those who claim the inconsistency of Islamic Penal Laws with international human rights instruments, actually rely on Article 7 of the ICCPR which provides, inter alia, that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment, making their own unwarranted interpretation that the phrase "cruel, inhuman and degrading punishment" includes the penalties provided for in the Islamic Penal legislations. Such interpretations have no legal weight whatsoever since th ICCPR itself excludes whatever is provided for in the national legislations. Moreover, we have explained that the inconsistency allegation is in itself a flagrant violation of the international human rights Law, including the ICCPR and the Universal Declaration, which provide that everyone shall have the right to freedom of religion, which includes the freedom to manifest the religion in different forms, including the Penal legislations.

80. For those reasons combined we again urge the General Assembly to ask the Special Rapporteur to withdraw his remarks regarding State legislations in the Sudan which are Islamic legislations and bring him to justice since his remarks offend the feelings of all Muslims world-wide.

6. Slavery, servitude, slave trade, forced labor and similar institutions and practices not known in the Sudan

81. Even after having visited the Sudan three times the Special Rapporteur was not able to substantiate the abovementioned allegation, which is not true, and that explains why, in his report of February 1994, he has used the word "seem" in paragraph 65 when describing such tribal practices: "they seem to fall under

Article 1 of the Slavery Convention (1926)" That uncertainty in the words of the Special Rapporteur could not be compared with the strong, clear and solid phrasing of the Sudanese Penal Code of 1991 where the crimes of abduction (Art. 161), Kidnaping (Art. 162), forced labour (Art. 163), unlawful confinement (Art. 164) and unlawful detention (Art. 165) are punishable with imprisonment for periods not exceeding 7 years, 10 years, one year, 3 moths and one year, respectively.

82. So, we have every right to submit that it is not appropriate for the Special Rapporteur to raise the allegations contained in paragraphs 27-33 of his present report, including the finding that there is a tacit political approval to the practice of slavery, which he has previously failed to substantiate even after having visited the Sudan three times, as we have pointed out above. Not only that but also the Special Rapporteur has failed to establish, through the allegations and the hearsay evidence he has compiled in his report, that the right of ownership contemplated by the different international instruments on the subject has ever been exercised, with the knowledge of the authorities in the Sudan, over any individual in any part of the country. Moreover, Article 7 of the Supplementary Convention on the Abolition of Slavery defines slave trade " as acts involved in the capture, acquisition, or disposal of a person with intent to reduce him to slavery..." i.e. that the element of intention is decisive. In the Sudanese tribal fights, which normally result in captives and prisoners of war on both sides of the conflict, there is no such intention, since the fights would only break out to get more pasture and water for the cattle and not to collect slaves as was the case with the white man decades ago. So no fair-minded observer would agree with the Special Rapporteur that the Convention is applicable to the case of the Sudan. The position of the Sudan in this connection is further supported by the fact that Islam, being the religion of the majority of the Sudanese people, shunned and prohibited all forms and practices of slavery hundreds of years prior to the adoption of the Slavery Convention of 1926.

83. Under this Section of his report the Special Rapporteur has also intentionally implicated the para-military forces, including the Popular Defense Forces, in the slavery practices which he has described. As we have already pointed out in our earlier responses, we are confident that the Special Rapporteur was misadvised and that the reports given to him in relation to these forces were intended to mislead him. These forces are actually carrying on a noble mission of protecting the relief routes and fighting banditry and outlaws who regularly interfere with the relief operations and should have been commended by the Special Rapporteur rather than being wrongfully projected in such discrete manner manifesting the bias and political motivation of the Special Rapporteur.

7. Freedom of thought, conscience and religion guaranteed

84. Even if we accept the submission of the Special Rapporteur that the Government of the Sudan was so irrational as to think that withholding relief from the people would make the government and the values it espouses more attractive to them, the realities would not make such course of action possible since the U.N. records show that the control over relief supplies is mostly in the hands of NGOs, mostly Christian and western. If the Special Rapporteur has assumed that changing religion is the only way for getting relief, the assumption is only true of the Christian Missionary Societies, which have, during the British colonial rule in the Sudan, monopolized education and many other services, and would only offer them to those who accepted baptism. Many western church-affiliated NGOs are trying to repeat what had been done by their forerunners, and are using similar tactics. Furthermore, and according to Quranic teachings there is no compulsion in religion, so the references in paragraphs 35-36 to enforced Islamization and the killing of those who refuse to convert to Islam are against the fundamental principles enshrined in the Quran. On the other hand, the educational institutions provided by Muslim NGOs are private and very expensive. The displaced would not be able to gain access to these much sought-after institutions. Within its means, the Government has been trying to meet the needs of the minorities. For example, teaching of Christianity in Government schools in the North has, for the first time, been made available by the current government so as to give equal rights to the Christian minority. In addition, the religious tolerance of the Government has resulted in the availability of a large number of very prestigious church-run schools in Khartoum and other towns. There is thus no truth whatsoever in the allegations leveled by the Special Rapporteur in this regard.

85. In this connection we have referred in our previous responses to the fact that there are reports of "alarming " number of conversions to Christianity in both government-controlled areas and in the rebel-held areas, in addition to proliferation of churches to the extent that Khartoum State has got more than 500 new churches by February 1993. Nevertheless, the Special Rapporteur is still repeating the outdated allegation of enforced Islamization.

86. Moreover, SPLA in all the areas it has captured has always started its activities by cutting the throats of the imam of the mosque and the muezzin, and most Mosques in SPLA-held territory had been either destroyed or turned into ammunition stores or liquor houses. By contrast, there has never been any destruction of places of worship by the government or any of the forces under its control. And it could never do that, even if only because many of the government soldiers are Christians. Thus, the Special Rapporteur is in fact blindfold to lack of freedom of worship where it exists and sees persecution where none exists!

87. As they say, it is not always easy to tell lies, so we notice in paragraph 35 that the Special Rapporteur has referred to the allegation of "enforced Islamization", while in paragraph 34 he has the following to report: "Reports on the destruction of mosques in the Nuba mountains reach the Special Rapporteur in 1995." We submit that it is impossible to reconcile such contradictory statements even if it is true that there is an officially expressed claim that the Government knows Islam better than the ordinary people, as alleged by the Special Rapporteur. However, we are used to such unfounded allegations, and up to this moment we are waiting for him to accept our challenge for substantiating the similar allegation contained in his report of February 1994 that the Government has confiscated mosques run by Ansar al-Sunna or the Khatmiyya, even if only by naming one such mosque. And once again we challenge him to name only one of the mosques which he has alleged to be destroyed by the Government and all members of this august body are invited to be our witnesses for such challenge, which he would never be able to meet.

88. As for the allegation contained in paragraph 36 that there are summary executions of 12 civilians in Lobonok on 3 May 1995, it suffices to point out that the different organizations and dignitaries who have visited the area after that date have never mentioned or referred to such allegations, and we don't believe that the Special Rapporteur is in a position to know better since even if he has actually met an eye-witness, those who have visited the area recently must have met dozens of eye-witnesses but have never made any similar allegations. And since the Special Rapporteur has not accused those circles of covering up for the Government, the only remaining explanation is that the allegations are unfounded.

8. Freedom of expression, association and peaceful assembly guaranteed

89. It is symptomatic of the Special Rapporteur's utter lack of respect for his mandate of seeking "reliable information" that he consistently fails to find out what is actually happening in the areas where he is making instant judgements. For example he is completely oblivious to the Press and Printed Materials law giving private companies the right to publish newspapers and other publications. He is also oblivious to the fact that, as of 28 January 1994, the government has relinquished all control of the papers and their publishing houses, allowing them to compete as private entities with other privately owned publications. Already three new news-papers have emerged to compete with the privatized companies. Even in the field of the Radio and Television, the government's networks are poorly funded compared to powerful international broadcasting agencies of both radio and television which are freely and widely received in Sudan. It is in fact the government which should complain about lack of access and ability to make its views and case heard, since the powerful

international media (and the Special Rapporteur) are constantly giving space and credence to reports of its opponent, while its voice goes unheard.

90. As for the political parties referred to in paragraph 39 we once again explain that political association is regulated by law and that we believe that as long as the regulations allow free expression and full participation of all citizens without discrimination, certain types of associations and organizations, like political parties in the Sudan which are based on religious and family affiliations and which have caused universally acknowledged harm, could be prohibited. It is only common sense to try to progress beyond situations that have led to repeated stalemates in the political life and harmed the progress of the country, as well as feeding strife and disharmony. For the same reason not even the opposition is calling for a return to the discredited party system. The opposition's programme calls for a five-year interim period in which no parties would be allowed to take part in the political life. The present government is only implementing policies which have unanimous backing in principle, and its programme differs from that espoused by the opposition in that has more popular support. In the end, the people will decide on how they want to run their country by electing the representatives they trust, and such elections have been scheduled for 1996 as we have already explained. The administrative regulations called for by the Press and Printed Materials Law regarding licensing and examinations for providing the ability of journalists, are in no way restrictions on the freedom of speech and press as claimed by Special Rapporteur in paragraph 37. All professions such as law, medicine, engineering...etc.. have their own administrative regulations intended for the improvement of the profession. Furthermore, such practices are not unique to the Sudan, but are recognized almost everywhere else.

91. As for the licensing of fax machines referred to in paragraph 38, the matter is even more straight-forward since using a fax machine would need the availability of a telephone line and to get such service, one would need to consult the Government agency concerned, which is the Ministry of Telecommunications.

92. The reference in paragraph 39 that the Criminal Code of 1991 declares as an unlawful assembly a gathering of more than five persons without the prior approval of the competent state authorities was intended to discredit the Government of the Sudan despite the explanation given to him previously verbally and in writing. We strongly believe that the explanations given were convincing, but the Special Rapporteur, exposing his credibility time and again, has declined to report the explanations given, which were as follows:

(a) The provision regarding unlawful assembly was not introduced by the 1991 Criminal Code but was originally introduced by the British Colonial rule in the Sudan.

(b) There is a similar provision even in the Penal Codes of the well established democracies of today.

9. The Rights of the child

General aspects

93. In paragraph 41, the Special Rapporteur has also once more exposed his credibility by pointing out that he: "has not received any communication from the Government of the Sudan...in relation to the most serious abuses and violations, namely those committed against children living or working in the street and the camps set up for children belonging to these categories." Our response to such unwarranted claim is as follows.

94. The Special Rapporteur is in no position at all to report about the rights of the child in the Sudan for the obvious reason already given that he (while in Khartoum) turned down an official invitation to attend a seminar on the rights of the child held in Khartoum during 18-20 December 1993, under the auspices of the Sudanese National Council for Child Welfare and the UNICEF. He turned down the invitation as he decided to leave Khartoum on 17 December 1993 one day before the opening of the seminar, in order to meet his Christmas plans. However, it seems that the Special Rapporteur has forgotten that incident, since in paragraph 47 of his report he has commended a similar seminar by UNICEF. Such discriminatory attitude proves the partiality of the Special Rapporteur.

95. However, that was a clear example as to how the Sudan opens the doors wide open for the Special Rapporteur to have first-hand information about a very important issue (Children), in the presence of the competent U.N. agency (UNICEF), but he refuses to avail himself of that opportunity, which would have precluded him from reporting at length the unfounded allegations contained in paragraphs (40-56) of his report.

96. As was the case with regard to the different aspects of the mandate, the Government of the Sudan has been keen to give the Special Rapporteur a true picture of the rights of the child in the Sudan, but as evidenced by that incident the Special Rapporteur has been turning a blind eye and a deaf ear. Nevertheless, the efforts of the Government have continued, and that is why the Government has decided, immediately after the conclusion of the seminar, to send to him by express courier the final report and the recommendations of the seminar at his home address where he has been enjoying his Christmas holidays and using his imagination to report about the rights of the child in the Sudan. As expected he did not report that incident or acknowledge receipt of the documents sent to him, but instead he is accusing the Government of not responding.

97. As for the substance of the issue of the rights of the child in the Sudan, our response is as follows:

First: on the theoretical level

The representative of UNICEF in Khartoum, Mr. Tarig Farougi, mentioned in his statement before the abovementioned seminar the following:

(a) With regard to children in the Sudan we notice, during the four past years, that there are many clear milestones.

(b) The Sudan is one of the promoters of the Convention on the Rights of the Child.

(c) The Sudan is the second Arab Country to ratify that convention.

(d) The Sudan has ratified the Convention without any reservations and was in full compliance with recent call for minimization of reservationsas reflected in Vienna Declaration and Programme of Action.

In addition to the statement of the representation of UNICEF, and on the theoretical level we would like to make the following observations:

(a) Not only that the rights of the child are now part of the Laws of the Sudan, but actually the welfare of children has been made a constitutional obligation on the Government by Article 7 of the Constitutional Decree No. 7 promulgated on 16 October 1993. We believe that no country has gone that far, and such pioneership should have been commended by the Special Rapporteur.

(b) The seminar referred to above took note with appreciation of the government initiative to review and revise all legislation pertaining to children, since the Minister of Justice has established a Committee for that purpose.

Second: On the practical level

The representatives of the UNICEF in the seminar addressed also the practical aspects by stating the following:

(a) In 1992 the Sudan launched a national plan for the protection and welfare of children and consequently became one of the only four African Countries who have done so.

(b) There are many achievements which could be mentioned in this context, including the Wad Medani Workshop on the rights of the child, comprehensive vaccination, and the commencement and successful continuation of Operation Life-line.

What else would a reasonable man require of the Sudan on the practical level, after having launched that national plan and achieved those objectives. Actually, there are many other achievements but we are keen to confine our references to those acknowledged by the representative of competent U.N. agency so as to show how biased was the reporting of the Special Rapporteur.

Lastly, it is worth mentioning that the Government has made itself committed to the recommendations of that seminar.

Children living or working in the street

98. From the international media coverage almost everyone is familiar with the multiple risks and dangers confronting street children, including addiction, pornography, prostitution, and sale of organs.

99. The strategy of the Sudan Government in this connection has been to adopt effective, preventive, and corrective measures so as to prevent and if need be eradicate those vices altogether. That strategy has and is working very well. The Special Rapporteur himself , with all his bias, has not reported the existence of any of those vices, but as is expected no recognition or appreciation was expressed by the Special Rapporteur for the efforts of the Government.

100. However, the Special Rapporteur did not rest contented with his omission to recognize the efforts of the Government,but has made utmost efforts to build a case against the Sudan by alleging that the Government is gathering the children in certain camps against their will. Previously the allegation framed by the Special Rapporteur was that such action should only be done by a court-order, and we have responded by explaining that the allegation does not hold water because it contradicts Article 3 of the Convention on the Rights of the Child which provides, inter alia: "In all actions concerning children,whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be primary consideration." It is clear from the foregoing Article that welfare actions concerning children do not in all cases require court orders. The public or private welfare institutions and administrative authorities can take actions concerning children under only one condition, that such actions be in the "best interest" of the child.And as is clear we have raised the issue of the "best interest" of the child long before the Special Rapporteur, who is raising it in paragraph 44.

101. The Government was actually doing nothing more than what is warranted by the abovementioned Article, and its national plan in that regard has been commended by the representative of UNICEF as making the Sudan one of the Leading four African countries with such national plans. On the other hand, the street children are really competing for the welfare programmes of the Government which are confined to limited numbers because of budgetary constraints, so could any body possibily agree that those children are detained against their will, or dramatically depict such practice as he did in paragraph 49 when legitimately exercised by Sinnar State, also the number he quoted (130 children) proves that such welfare programmes are very limited because of the budgetary constraints and only the lucky ones would be chosen.

102. During his second visit to the Sudan the Special Rapporteur met privately with a child who has been detained for three years in those camps.It should be noticed that the child did not testify that he was detained, or kept against his will or that he has been subjected to any religious or political indoctrination. Nevertheless, when the Special Rapporteur started raising queries about those camps during his second visit, he was invited for the second time to visit them, but surprisingly he refused to go. In this report of February 1994 he tried to make excuses for his refusal to visit those camps by saying that the time was late in the evening, but he did not tell us why he did not request to visit them after he had cancelled his trip to Juba and Malakal, since that cancellation gave him two more days in Khartoum.It seems he preferred, as usual, to get his information from indoor consultations with biased sources rather than go himself and collect first-hand information. Accordingly the Special Rapporteur is in no position to report anything about those camps and his wrong reading to Article 3 of the Convention is unexcusable.

103. We conclude that aspect of the issue with the following additional observations that the Special Rapporteur is contradicting his own previous reporting on the same subject since he has already in paragraph 92 of his February 1994 report, expressed satisifaction with the living conditions of the children in those camps and evidenced the variety of subjects taught to them, including mathematics.

Abduction of Children

104. The issue of abduction of children referred to in paragraphs 51-52 is not true. It was either created by the Special Rapporteur or by the sources who provided him with the information. But if he has provided specific names of persons engaged in such illegal practices the Government would not have hesitated in taking immediate legal actions against the persons involved, especially that the crime of abduction is punishable under the Sudanese Penal code with imprisonment for a period not exceeding 10 years or with fine or with both penalties. Actually, the Special Rapporteur was

reporting nothing new other than reiterating his old stories,except the funny reason given for abduction in paragraph 52: "they walk naked and are non-believers," which by itself is quite sufficient to qualify him for a novelist.

The Status of Minors

105. The bias of the Special Rapporteur has reached intolerable extent as is clear from paragraph 53 of his report where he has cited Article 27(2) of the Criminal Act of 1991 out of context,making it possible to pass a death sentence on a minor as young as seven. That information is not true since Article 8 of the same Act provides that there is no criminal responsibility for any person who has not reached puberty, and Article 9 provides that the minor who has not reached puberty shall not be considered as having committed any crime and could only be subjected to reformatory measures such as reprimand or being handed over to his family after having signed an undertaking, so how can the Special Rapporteur allege that it is possible to pass a death sentence on a minor as young as 7 ?

Sale or traffic of children

106. The reference by the Special Rapporteur in paragraph 54 that he is not aware of any action taken by the Government of the Sudan to investigate cases brought to its attention is not true, to say the least, since no cases have ever been brought to the attention of the Government by the Special Rapporteur. To substantiate such submission we refer to our response to his February 1994 report addressing the same point: "instead of providing credible and reliable information as required under his mandate, so that the Government can move immediately and take legal action against all persons involved in such notorious practices, the Special Rapporteur is using a very weak language..traffic including sale seem to be...well founded...what else could he verify if he fails to substantiate and prove such a purported mass abduction which could not be concluded if it really exists." So since last year the Government has been requesting the Special Rapporteur to give the information that would enable the Government to make investigations, but no information was given by the Special Rapporteur and once again he is blaming the Government for not investigating cases which have never been brought to its attention.

The right of the child to identity and education

107. When making allegations concerning changing of names in paragraph 55, the Special Rapporteur did not even bother to mention the source of his information, let alone to comment on the credibility or reliability of the source. Accordingly we submit

that those allegations are not true, and should not have been reported, because to report any allegation, let alone such a serious allegation, without having any credible evidence would bear negatively on the Government.

Children in the conflict zones

108. In this connection we reiterate our support to the statement contained in paragraph 101 of his February 1994 report that : "children have been used as soldiers in the conflict by all factions of the SPLA can also be confirmed by the Special Rapporteur." And we urge the Special Rapporteur to support the efforts of the Government in bringing those children back to their families and condemning the SPLA for such immoral and illegal practices. Moreover, he should also follow up the General Assembly Resolution on the matter rather than promising to discuss the subject in his final report as he did in paragraph 56.

10. The rights of women

109. Women in the Sudan are enjoying equal rights with men, including the right to equal pay before that right was even recognized in many western countries.

110. As for the testimony of women in certain cases we would like the Special Rapporteur to realise that it is part of the ordain of God, and such as comes under freedom of religion and its manifestation guaranteed by various human rights covenants and for those reasons combined we submit that the comments of the Special Rapporteur in this regard are in themselves violations of the freedom of religion, which is a basic human right.

111. Furthermore, the Special Rapporteur himself has previously, in paragraph 104 of his February 1994 report, recognized the vast majority of rights enjoyed by women in the Sudan : "As far as the political rights of women are concerned, the Special Rapporteur notes that although the Sudan is not a party to the Convention on the Political Rights of Women (1952), the exclusion of women from political activities, including the right to elect and the right to be elected, to hold public office and to exercise public functions, was not reported." That is no wonder since the Government of the Sudan ha always been claiming that it respects human rights even if it is not obliged to do so by international law because of its Islamic orientation.

112. As for the conclusion made by the Special Rapporteur in paragraph 57 that the differentiation between men and women in matters relating to civil capacity infringes one of the basic principles of the UN Charter: the principle of equality of men and women, and that the Special Rapporteur is not aware of any

preparatory act which would indicate that the Sudan is willing to accede to the 1979 Convention on the Elimination of All Forms of Discrimination against Women,we avail ourselves of this opportunity to explain that the delay of the Sudan's accession to the abovementioned convention is caused by the misunderstanding propagated by the Special Rapporteur himself that Shariah laws discriminate against women in many civil matters in violation of the right of equality of men and women. One aspect of such discrimination which is very limited in scope has been explained above as being mandated by the freedom of religion and its manifestation in the form of legislation or otherwise,which is in itself a basic human right. The other aspects of the alleged discrimination are easier to explain since they are positive discrimination,giving more advantages to women,and as such are most welcomed by the relevant conventions, for example, making the male partners in the family responsible for all the financial obligations.

113. On the other hand the Special Rapporteur has welcomed, in Paragraph 58, the release in August 1995 of all female detainees who have children, but as mentioned earlier he has watered down that achievement despite the fact that the request made by him was not to release them but only to improve their living conditions by calling upon the Government of the Sudan to eliminate the underlying causes that led to their detention, in particular the criminalization of traditional practices of southerners, namely, brewing and sale of alcohol. Such call proves beyond any doubt the selective approach of the Special Rapporteur which is targeting Islam, since he himself has previously, in paragraph 108 of his February 1994 report, called upon the Government of the Sudan to criminalize the traditional practice of female circumcision. Actually the Laws of the Sudan don't forbid non-muslims from drinking alcohol but the sale of traditional alcohol was forbidden even before the application of the Shariah Laws because it is dangerous for the physical and moral health of the society, nevertheless, the ulterior motives of the Special Rapporteur have made him call upon the Government of the Sudan not to criminalize such practices,which were offences even under the Penal Code applied long ago in the Sudan by the British colonial rule.

114. The allegations contained in paragraph 59 that there is practically unlimited powers granted to members of the Popular Police Force and the Peoples Committees in the preservation of the moral health is not true and has no factual base whatsoever, and the citation of Article 5, chapter 1,of the Constitutional Decree No. 7 would not give the allegations any weight since it is most irrelevant and in fact the Special Rapporteur has been raising that allegation long before that Decree was promulgated.

11. Freedom of movement and residence, including the right to leave or return to the country

115. As is the case with other matters covered in his report, the Special Rapporteur has tried to give a negative impression about the freedom of movement and residence, including the right to leave or return to the Sudan and the possession of documents concerning personal identity. In response to that we point to the fact that many leaders of the opposition groups living today outside the Sudan have left the country through Khartoum airport and with the approval of the authorities. Those leaders include Sayed Mohammed Osman Al Marghani and Sayed Omer Nur Al Dayem.

116. Actually freedom of movement and residence are constitutionally guaranteed in the Sudan by Constitutional Decree No. 7 and there are no restrictions over such rights, except those recognized in all other jurisdictions.

117. The allegation contained in paragraph 61 that certain areas, in particular, the Nuba Mountains area, is a forbidden zone for any human rights monitoring or relief activity is not true, since as recently as a few weeks ago the government of the Sudan invited not less than 40 heads of missions and diplomats, including the United States and the United Kingdom Ambassadors, to visit the Nuba Mountains. The Sudan, therefore, has not experienced any restriction of movement except during the colonial rule when the South and the Nuba Mountains were considered closed areas for any muslim from northern Sudan. The denial of flying clearances is a sovereign right but has been excercised in the most responsible manner and with unprecedented cooperation with persons concerned, including the Special Rapporteur himself, to whom flying clearances to Juba and kajo Kaji has been issued but he refused to make use of them without giving any reasons as we have already noted.

118. The registration for national service is a legitimate practice even in the countries which have hinted to the Special Rapporteur to make these allegations, and one would question the intention behind raising this matter in the context of human rights.

119. The repetition by the special rapporteur of the unfounded and unjustified allegations of the Eritrean regime of EPLF regarding the harassment of the Eritrean refugees is strong evidence of the orchestrated campaign against the Sudan spearheaded by the Eritrean regime on behalf of some international powers. The Eritrean regime has demonstrated an unprecedented ingratitude towards the Sudan, which has for decades helped the brotherly Eritrean people. It was not surprising, then, that the Special Rapporteur finds it helpful for his agenda to visit Eritrea (paragarph 5) to coordinate with the Eritrean regime in fabricating all kinds of allegations against the Sudan. The truth which is well known to the international community, and to the UNHCR, in particular, is the fact that the Government of the Sudan continued to bear the major burden of

assisting the Eritrean refugees due to the reluctance of the international community to live up to its responsibilities in this field. The Eritrean refugees are not confined to refugee camps, rather they are mixing with the Sudanese people in their towns and villages, sharing over 60% of the resources of the eastern States, and benefiting from all the services. Although we are fully convinced that it is the legitimate sovereign right of each state to put restrictions against foreigners' movements, including refugees, and in some cases diplomats,the Sudan has never resorted to this right against any refugees, in particular the Eritrean refugees. Moreover, the Eritrean regime has been called upon repeatedly to allow for the free and voluntary repatriation of all the Eritrean refugees without exceptions, since the reasons for refuge are no longer prevailing,but it was reluctant because of the financial implications of such mass movement of refugees. Moreover, most if not all of the Eritrean refugees themselves would prefer to stay in the Sudan rather than go back to Eritrea, a matter which would refute the allegations raised by the Special Rapporteur in this connection.

120. The practice of exit visas to be obtained by every national is an ordinary practice and has been followed by all former governments in the Sudan as well as by many other countries, and as such it is not a violation of any right. As regards the registration of nationals in the Sudan Embassies, it is also a normal practice intended for the well being of those nationals.

B. Abuses by parties to the conflict in southern Sudan other than the Government of the Sudan

121. The fact that the special rapporteur has reported about the violations of human rights by the rebel factions in only five brief paragraphs shows that he sympathizes with the rebel factions, in particular the SPLA mainstream of John Garang. The Special Rapporteur has avoided mentioning his name when referring to the atrocities and violations committed by the factions while he mentions, by name, the leaders of the other factions. That bias attitude was even more clear in paragraph 47 where he has hailed the signature by Garang and Machar of the ground-rules agreements with Operation Lifeline Sudan (OLS), without making reference to the quotation made in paragraph 67 of the OLS report contained in document A/50/464 dated 22 September 1995 : "The implications for the delivery of humanitarian assistance were grave indeed : since the beginning of 1995 there have been three serious incidents of kidnapping of OLS personnel of different factions and militia, as well as incidents of misappropriation of relief supplies, while the security repeatedly forced the evacuation of the relief workers." The Special Rapporteur has mentioned that a number of relief workers were kidnapped but stopped short of attributing the "misappropriation" of relief supplies to the factions and militia.

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122. Furthermore, the Special Rapporteur has also failed to report in detail the incidents of hostage-taking of relief workers by the rebel factions in the manner they were reported in paragraph 20 of the OLS abovementioned report. As well as failing to report, the fragmentation of rebel factions causing major disruptions in the OLS relief activities during the past year, and the security incidents that affected the safety of relief personnel, including shooting by rebel factions against UNICEF plane and looting relief cargo in areas not under government control in Bahar El Ghazal and upper Nile.

123. The Special Rapporteur adamantly avoided any reference to the direct role and the responsibility of John Garang for the abduction and kidnapping of more than 20,000 children from southern Sudan, UNICEF and ICRC are engaged in their unification with their families as contained in paragraphs 59 and 60 of OLS report. The only conclusion which could be drawn in this regard is that the bias of the Special Rapporteur towards Garang's faction led him to cover-up Garang's crime of the century.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

124. As mentioned and elaborated in paragraphs 2-20 above, Mr. Gaspar Biro, the Special Rapporteur on the situation of human rights in the Sudan, has had free access to the Sudanese territory three times. However, following the presentation of his first report as Special Rapporteur on the situation of human rights in the Sudan, to the Fiftieth Session of the U.N. Commission on Human Rights in 1994; and as a result of the contemptuous and blasphemous statements made therein against Islam and its laws, followed by his unwarranted and uncalled-for demand to abolish the application of Shariah in the Sudan; the Government of the Sudan, there and then declared Mr. Gaspar Biro as an unacceptable person to visit the Sudan, and not to have any dealing of any kind with him.

125. However, in compliance with its international duties and obligations, as a member of the United Nations, the Sudan has requested from the competent United Nations bodies, especially the Commission on Human Rights and this august body, to replace Mr. Gaspar Biro by appointing an experienced, impartial dedicated person acceptable to the Government of the Sudan. It is to be emphasized, once again, that the Government of the Sudan is ready to co-operate with such an impartial and dedicated expert, if and when appointed.

126. The Government of the Sudan in previous occasions brought to the knowledge of the U.N. competent authorities, namely the Commission on Human Rights and this august body, that Mr. Gaspar Biro, acting beyond the limits of his mandate, made himself an active actor in the domestic political affairs of the Sudan. To that end, he actively participated in a number of meetings, conferences and symposia organized by the so-called Sudanese opposition abroad, e.g. in cities like Washington, London, Bonn etc. In that capacity, Mr. Gaspar Biro has always adopted a biased and hostile attitude against the Government in Khartoum.

To fulfil his personal goals and objectives, and not the goals and objectives of his mandate, Mr. Gaspar Biro makes as his primary source of information on the situation of human rights in the Sudan elements of the so-called Sudanese opposition abroad and countries hostile to the Sudan. This attitude of the Special Rapporteur is well reflected in Paragraph 5 of his report. It is also shown by the fact that though there have been numerous developments in the Sudan in the field of human rights during the period covered by the report, the Special Rapporteur intentionally ignored those positive developments, and chose to focus on unverified allegations with the clear intention of distorting the image of the government.

127. Though the U.N. Commission on Human Rights extended the mandate of Mr. Gaspar Biro in March 1995 for another year, yet it is to be observed in paragraph 5 of his report that he made only a sixteen-day-trip to three neighbouring countries to the Sudan, in order to accomplish the so-called fact-finding mission on the situation of human rights in the Sudan. Furthermore, considering the hearsay nature of information, without corroboration of any kind, on which Mr. Gaspar Biro based his conclusions and recommendations, the Government of the Sudan concludes that the current report of the Special Rapporteur, as his previous reports which he submitted to the Commission on Human Rights and the General Assembly, is a predetermined politically motivated document which lacks weight and credibility, and whose conclusions and recommendations vis-à-vis the Government, are nothing but fallacious and baseless allegations.

128. The conclusion made by Mr. Gaspar Biro in paragraph 77 that there is no improvement on the situation of human rights in the Sudan, especially in the Nuba mountains, is undoubtedly a preconceived idea which the Special Rapporteur failed to conceal. In this connection, we refer to paragraph 18 of the OLS report of 1995, which states: "United Nations assessments were conducted in April in government-held areas of Southern Kordufan in response to reports of large numbers of displaced people from the Nuba mountains area. An estimated 100,000 Nuba displaced persons are in peace villages established by the Government of the Sudan..." Furthermore, the visit effected by forty (40) Heads of Diplomatic Missions accredited to the Sudan, to the State of southern

Kordufan, where the Nuba mountains area is situated, during the first week of November this year, is no doubt a crystal clear event evidencing that the Special Rapporteur is living in a real nightmare in respect of the situation of human rights in the Sudan.

129. Despite the fact that it has been widely reported and published by the international media that inter-factional fights between various factions of the rebel movement, especially the so-called mainstream of the SPLM/A led by John Garang and the so-called south Sudan independence movement SSIM/A led by Riek Macar, has been and still is a major source of gross human rights violations and abuses among the civilian population in areas where there are rebel elements in the south of the country; Yet the Special Rapporteur hesitantly devoted only a page in his report to the violations and atrocities committed by the rebels. This confirms not only the fact that Mr. Gaspar Biro associates himself with the so-called elements of opposition to the current Government in Khartoum, of which the rebels in the south are a part, but it also confirms his endeavor to cover up heinous crimes perpetrated by the SPLM/A mainstream, which have been strongly condemned by the international Community, especially the abduction of more than 20,000 children to use as child soldiers and human shields.

130. The elaborate provisions of the Sudan Penal code of 1991 mentioned in paragraphs 81-83 above clearly expose the mal-intention of the Special Rapporteur in alleging passivity and acquiescence by the Government in what he called practices of slavery, servitude, slave trade, forced labor and similar institutions in the Sudan. No doubt that by waging such false and untrue accusations against the Sudan the Special Rapporteur tries in vain to horrify and shun non-muslims in the Sudan away from adhering to Islam. However, the visits by both Pope John Paul II and Dr. George Carey, the Archbishop of Canterbury to the Sudan in recent times have shown to the international community, except Mr. Gaspar Biro, that religious tolerance and cultural co-existence are among the virtues highly cherished by the people of the Sudan.

131. Only a biased reporter, like Mr. Gaspar Biro, can describe normal military operations against elements of the rebel movement, with the declared purpose of overthrowing the government, as deliberate aerial bombardments. Indeed by making such false allegations against the government, the Special Rapporteur does not even attempt to conceal his feelings of sympathy and support to the SPLA.

132. Though the Special Rapporteur is convinced, more than any other person, that his current report is as baseless and groundless as its predecessor reports on the situation of human rights in the Sudan; Yet he is recommending therein to the General Assembly that further and intensive monitoring of the situation of human rights in the Sudan should be pursued. By that recommendation, we have no

doubt in our minds whatsoever that Mr. Gaspar Biro is anticipating what that implies for him...a perpetual job opportunity, rather than serving the noble cause of human rights.

133. In view of the recommendation contained in paragraph 82 (K) of the report of the Special Rapporteur regarding the placement of monitors "in such locations to facilitate improved information flow... of reports on the situation of human rights in the Sudan." the Government of the Sudan, while reaffirming once again, that it will abide by its duties and obligations in accordance with International Law, would like to State emphatically and unequivocally that it will never have any regard or deal with such recommendation, if approved.

In this connection, the Government of the Sudan would like to remind, in anticipation, this august body as well as individual member States, of the principle enshrined in Article 2(7) of the Charter of the United Nations.

B. Recommendations

134. Considering the fact that the report of the Special Rapporteur under consideration by the General Assembly is a hasty collection of baseless and groundless allegations, not supported by any credible and reliable information, with the mere intention of distorting and disfiguring the image of a member State; the Government of the Sudan, therefore recommends the following:

(i) That the General Assembly takes cognizance of the fact that the Government of the Sudan, while ready to co-operate with the competent United Nations institutions and agencies, especially those concerned with the issue of human rights, is not in a position to reverse its declared policy vis-à-vis the Special Rapporteur. All are aware that the Government of the Sudan took the position of not co-operating with Mr. Gaspar Biro because of the contempt he has shown for Islam and also because of his lack of experience and professionalism, in addition to his lack of neutrality and his hostile attitude towards the Sudan. On the other hand, the Sudan strongly rejects and is opposed to the idea of deploying monitors to monitor the situation of human rights in the Sudan, for reasons well elaborated in paragraphs 27-38, specially the fact that there is a credible and reliable regular flow of information about the situation of human rights in the Sudan.

(ii) That the General Assembly should not give any credit-worthiness to the report of the Special Rapporteur, and therefore pass a resolution to the effect of discontinuing the consideration of the issue of human rights in the Sudan.

135. In conclusion, in the light of the information contained above, and in view of the unreserved co-operation by the Government of the Sudan with the relevant organs of the United Nations dealing

with human rights, and considering the fact that the Sudan has once again reaffirmed its commitment to abide by the provisions of the various international legal instruments to which it is a party; the Government of the Sudan is therefore hopeful that this august body will favourably consider the above-mentioned recommendations.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 6 December 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I have the honour to advance the following comments of the Government of the Federal Republic of Yugoslavia concerning the draft resolutions entitled "Situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia" (A/C.3/50/L.46) and "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia" (A/C.3/50/L.45).

The comments also pertain to the position of the Federal Republic of Yugoslavia regarding several statements and accusations about the human rights situation in the territory of the former Socialist Federal Republic of Yugoslavia made in the debate in the Third Committee under agenda item 112 (b) and (c).

The Government of the Federal Republic of Yugoslavia regrets that the draft resolutions reflect unhelpful propaganda rhetoric and a selective approach in the protection of human rights.

Several months have passed since the ruthless Croatian aggression against United Nations Protected Area (UNPA) sectors West, North and South and the joint military offensive of the combined units of the Army of the Republic of Croatia, Croatian Defence Council (HVO) and forces of the Government of Bosnia and Herzegovina against the territory of the Republika Srpska in western Bosnia. These military operations resulted in the largest and most dramatic ethnic cleansing since the crisis and the conflicts in the territory of the former Socialist Federal Republic of Yugoslavia started in 1991, as over 300,000 Serbs were expelled. Against this background, it is totally incomprehensible that the

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draft resolution (A/C.3/50/L.46) has failed to appropriately condemn such behaviour of the Government of Croatia and the Government of Bosnia and Herzegovina, or to provide corresponding measures to protect the Serb population.

The reports of the Secretary-General of the United Nations of 23 August 1995 (S/1995/730), 18 October 1995 (A/50/648) and 23 November 1995 (S/1995/987), the report of the new Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mrs. Elizabeth Rehn, of 7 November 1995 (A/50/727-S/1995/933), the statements made by the President of the Security Council on 4 August 1995 (S/PRST/1995/38), 7 September 1995 (S/PRST/1995/44) and 3 October 1995 (S/PRST/1995/49) and the special report of the European Union Monitoring Mission of September 1995 testify to the magnitude of the suffering of the Serb population. However, in the draft resolution there is scarcely a mention of the crimes perpetrated against the Serbs, especially by the forces loyal to the Government of Bosnia and Herzegovina. In this connection, the Government of the Federal Republic of Yugoslavia wishes to draw attention to Security Council resolutions 1009 (1995) of 10 August 1995 and 1019 (1995) of 9 November 1995.

Instead, the said draft resolution contains inappropriate, out-of-date assertions, at the expense of the Serb side alone, the prevailing practice for some time now. This approach is a striking example of a double standard and of partiality fostered by some Members of the United Nations, who advocate biased, zealous and discriminatory attitudes towards the entire Serb nation, while at the same time claiming to protect the rights of all the peoples in the territory of the former Socialist Federal Republic of Yugoslavia.

There are no grounds or justification to equate the situation in the Federal Republic of Yugoslavia with that in the Republic of Croatia and the Republic of Bosnia and Herzegovina, in view of the fact that the Federal Republic of Yugoslavia is not involved in the armed conflict with any of its neighbours.

By invoking the data from the reports of the previous Special Rapporteur, with whom the Government of the Federal Republic of Yugoslavia severed all relations because of his proven partiality, the authors of draft resolution A/C.3/50/L.46 wish to portray that in the Federal Republic of Yugoslavia there are "massive and systematic violations of human rights and international humanitarian law". The Government of the Federal Republic of Yugoslavia categorically rejects these allegations as absolutely baseless. There were some incidents but the law-enforcement authorities acted appropriately and the perpetrators were punished in accordance with the law. However, those were isolated cases and cannot in any way be presented as massive and systematic violations of human rights. The draft, regretfully, distorts the truth when it seeks to portray certain court proceedings or legitimate interventions by the law-enforcement officers against violence, separatism or terrorism as deliberate harassment or persecution of the members of certain categories of population in the Federal Republic of Yugoslavia. In the greatest majority of cases, those were legitimate interventions of the State authorities and courts against the perpetrators whoever they may be.

Regarding draft resolution A/C.3/50/L.45, the Secretary-General of the United Nations stated in his reports (A/48/858 and A/50/329) that rape had been reported to have been committed by all sides to the conflict. Assertions that the Serbs are solely responsible for instances of rape whereas the victims are the non-Serbs, as a rule, is untrue and unhelpful.

The Government of the Federal Republic of Yugoslavia has repeatedly condemned crimes against peoples, their freedom or property and, regardless of who the culprits are, is firm in its stand that those responsible must be brought to justice and appropriately punished.

On numerous occasions, the Government of the Federal Republic of Yugoslavia has expressed its commitment towards the continuation of cooperation with the Organization for Security and Cooperation in Europe (OSCE), provided that all rights of the Federal Republic of Yugoslavia, as a full-fledged member, are restored.

The unsubstantiated and generalized charges of alleged violations of the human rights of the Albanian minority in the Federal Republic of Yugoslavia are aimed at shifting attention from the open tendencies of the extreme political leadership of the Albanian minority in the Autonomous Province of Kosovo and Metohija towards the secession of this integral part of the Federal Republic of Yugoslavia.

Cynical and inhuman are claims that the Serb refugees from Krajina and the Republic of Srpska are allegedly being used to alter the demographic balance in Kosovo, Vojvodina and other parts of the Federal Republic of Yugoslavia. Had the concerned countries and other international factors exerted their influence on Croatia and Bosnia and Herzegovina, there would have not been any need for the Serbs to flee and be resettled in the territory of the Federal Republic of Yugoslavia. As far as the settlement of the refugees is concerned, it is a sovereign right of any State to decide, depending on available resources, where in its territory to settle them. The Government of the Federal Republic of Yugoslavia is trying to resettle the said refugees throughout its territory as evenly as possible.

As regards the position of persons belonging to ethnic or national, religious and linguistic minorities in the territory of the Federal Republic of Yugoslavia, they are citizens with equal rights and obligations under the Constitution and the laws of the country in which they live. It is strange that some countries (Albania, Bulgaria) during the course of the debate in the Committee expressed concern over the position of minorities in the Federal Republic of Yugoslavia, when Albania does not recognize the existence of the Yugoslav national minority and Bulgaria does not recognize the existence of national minorities at all.

I should be grateful if you have the present letter circulated as a document of the General Assembly under agenda item 112 (c).

(Signed) Vladislav JOVANOVIĆ
Chargé d'affaires a.i.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 6 December 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I am writing to you in regard to the draft resolution entitled "Situation of human rights in Kosovo" (A/C.3/50/L.43) prepared by the Republic of Albania in the Third Committee and statements and accusations made on the same subject during the debate in the Committee under agenda item 112.

First of all, a question may be asked why is it necessary for Albania time and again to raise the so-called question of Kosovo?

The alleged problem brought up by the representative of the Republic of Albania, as an example of the violations of human rights, however, has nothing to do with human rights but with the separatist movement headed by the leaders of the Albanian minority and inspired by the authorities of the Republic of Albania. The overriding goal is to achieve the secession of the Autonomous Province of Kosovo and Metohija, which would cause the territorial dismemberment of the Federal Republic of Yugoslavia, and ultimately the Province's unification with the Republic of Albania.

The Autonomous Province of Kosovo and Metohija, an integral part of the Republic of Serbia and of the Federal Republic of Yugoslavia, has for 50 years, since 1945, enjoyed cultural and territorial autonomy within Serbia. In 1981, when a violent uprising was staged against the constitutional order of the then Socialist Federal Republic of Yugoslavia, all the leading positions in the province, such as the President of the Presidency, the President of the Executive Council, the President of the League of Communists and the provincial secretaries for interior and defence were in the hands of the Albanian minority. At that time, delegates from this province had a veto power in the state

territory of the then Socialist Republic of Serbia. Unlike minorities elsewhere assembly of Serbia and could influence any decision which concerned the whole in the world, the Albanians of Kosovo and Metohija were running by themselves all aspects of public life of the province. State and federal authorities, contrary to the Constitution of Serbia and Yugoslavia, could not interfere in the decision-making process of the province.

In addition to that, a number of key federal posts at the state and party level were occupied by the representatives of persons belonging to the Albanian minority (S. Hasani, President of the Presidency of the former Socialist Federal Republic of Yugoslavia; I. Kurteshi, Speaker of the Assembly of the former Socialist Federal Republic of Yugoslavia; A. Shukria, President of the Presidency of the League of Communists of Yugoslavia; and A. Vlasi, President of the Youth Organization).

Instead of respecting the Constitution and laws of Yugoslavia and Serbia and fully integrating themselves in the social and political life as loyal citizens, the Albanian minority, guided by extreme nationalist party leaders and propaganda from Tirana, opted not to exercise the autonomy and the rights provided for by the Constitution. In so doing, they boycotted the census, elections and political institutions of the Republic of Serbia. For their decisions, they blamed the authorities of the Republic of Serbia and the Federal Republic of Yugoslavia.

The Government of the Federal Republic of Yugoslavia categorically rejects malicious and ill-intentioned charges on the alleged human rights violations of the Albanian minority. The problem, however, lies elsewhere. The Albanians have intentionally rejected the exercise of their rights. That is evident from the fact that all other minorities in the Federal Republic of Yugoslavia, especially in the Autonomous Province of Vojvodina, exercise their rights under the Constitution. For example, they have a right to education in their mother tongue at all levels recognized by European standards. Local municipalities where a minority population is a majority are run by the representatives of the minority political parties. Freedom of expression is manifested in numerous radio and television stations broadcasting minority programmes and by a variety of newspapers published in minority languages. The Assembly of the Autonomous Province, which is the centre of political activity, as well as the provincial government, have a wide mandate in implementing the cultural and territorial autonomy of the province.

How is it that persons belonging to the Hungarian, Romanian, Slovak and other minorities in the Province of Vojvodina freely exercise their human rights whereas the Albanian minority in the Province of Kosovo and Metohija claims to be oppressed. The problem stems from the prevailing thinking of the political leadership of the Albanian minority, headed by Ibrahim Rugova, that they (Albanians) are not interested in any minority, democratic or autonomy rights but only in the secession of Kosovo.

The political leadership of the Albanian minority in the Autonomous Province of Kosovo and Metohija, an ardent advocate of segregation, prohibits the entire Albanian minority population from being employed, going to public schools, visiting health institutions or in any other way being associated with

the state of Serbia and Yugoslavia. Those who try to disobey are subjected to various forms of harassment with the approval of the Albanian leadership. Owing to such policies, today a modest number of Albanians are employed in the local police, health institutions, schools and universities of the Autonomous Province of Kosovo and Metohija. At the same time, the Albanian political leadership levies its own taxes on the Albanian minority for running the self-proclaimed "Republic of Kosovo". This is done both in the Province as well as abroad. It is very hard to believe that some foreign Governments that are host to a large segment of Albanian immigrants from Kosovo are not aware of this fact, or are not willing to prevent such activities. Today, it is also common knowledge that the biggest drug traffickers in some parts of Europe are Albanians from Kosovo. It is estimated that in Switzerland, the majority of the illicit drug trafficking is in the hands of Albanians. The revenue from this usually winds up in the hands of Albanian separatists for the promotion of the cause of secession of the Autonomous Province of Kosovo and Metohija from the Federal Republic of Yugoslavia.

At the same time, the authorities of the Republic of Albania, who are encouraging separatism in Kosovo, do not recognize the rights of Yugoslav national minorities in their country. They even deny their existence and deprive them of all their cultural and religious rights and freedoms. For example, members of the Serbian national minority are denied the right to the official use of their mother tongue in schools and newspapers and on radio and television. The facilities of the Serbian Orthodox Church are being desecrated and its property is being seized.

Most revealing of the Republic of Albania's real motives about the phantom State, the so-called "Republic of Kosovo", is the statement of the People's Assembly of the Republic of Albania of 22 October 1991 (A/C.1/50/4, annex) by which the Assembly "recognizes the Republic of Kosovo as a sovereign and independent State". While the Albanian representatives are eager to pronounce publicly that their country upholds all the principles enshrined in the Charter of the United Nations, the Helsinki Final Act and the Charter of Paris of the Conference on Security and Cooperation in Europe, they at the same time do not hesitate to covet territories in neighbouring countries.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly under agenda item 112 (c).

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.